

JUN 98

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Institution Name, Address, & Telephone No. FCI, Terminal Island, 1299 Seaside Ave, Terminal Island, CA 90805, (310) 831-8961		Date January 4, 2001
Inmate Reviewed		
Inmate's Signature <i>Gambino</i>	Date 1-4-2001	Staff Signature <i>Semara</i>

1. Type of Progress Report

- ☐ Initial ☒ Statutory Interim ☐ Pre-Release
☐ Transfer ☒ Triennial ☐ Other (Specify) _____

2. Inmate's Name Gambino, Rosario	3. Register Number 06235-050	4. Age (DOB) 58 [REDACTED]
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5. Present Security/Custody Level

Low with an MSL of Medium/In

6. Offense/Violator Offense

Knowingly did Possess Heroin with Intent to Distribute; did Distribute Heroin; Conspiracy to Distribute Heroin; and Use of a Communication Facility to Distribute Heroin

7. Sentence

45 years with 20 years special parole plus \$105,000 fine

8. Sentence Began 12-06-1984	9. Months Served + Jail Credit 192 + 265	10. Days GCT/or EGT/SGT 734 EGT
11. Days FSGT/WSGT/DGCT NA	12. Projected Release 03-14-2007 via Presumptive Parole	13. Last USPC Action 01-20-1999 Continue to presumptive parole after service of 276 months on 03-14-2007

14. Detainers/Pending Charges

USINS for possible deportation

15. Co-defendants

NA

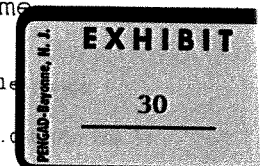
For continuation Pages, type on a blank sheet with the Inmate's Name, Register No., and Date and attach to this form.

Record Copy - Inmate File; copy - U.S. Probation Office; copy - Parole Commission Regional Office (If applicable)

Inmate

This form may be replicated via WP)

Replaces BP-S187.0



USPC/Gambino-00075

PROGRESS REPORT - CONTINUED

Committed Name: Gambino, Rosario Reg. No. 06235-050 Date: 01-04-2001

16. Institutional Adjustment: Mr. Gambino has demonstrated good adjustment during incarceration at this facility. A detailed description of his institutional adjustment is provided below.

a. Program Plan - During initial classification at this facility and subsequent program reviews, Mr. Gambino was encouraged to participate in educational and/or vocational classes, drug education, financial responsibility program, employment, counseling, and recreational programs.

b. Work Assignments - Mr. Gambino is currently assigned to the evening shift of the Recreation Department where he works as a maintenance orderly. His primary area of responsibility is the Bocce Ball Court located in the South Yard recreational area. In addition, he performs general janitorial work in the South Yard recreational areas. He works an average of about four to six hours per day, five days a week, and on an as-needed basis. Previously, he has held work assignments in the Food Service Department, Visiting Room Orderly, and as a Housing Unit Orderly. Work evaluation reports indicate he performed satisfactory work; and gets along well with staff and other inmates in all of these work assignments.

c. Educational/Vocational Participation - Mr. Gambino completed about 180 classroom hours of GED in an effort to attain a High School Diploma equivalency. Currently, he is not formally enrolled in the GED program. However, education staff has confirmed Mr. Gambino's participation in a tutorial program in his pursuit to complete the GED. During incarceration, Mr. Gambino has completed the following classes: Basic Algebra, Wellness, Special Education Reading, Writing Television Scripts, Social Topics, and Adult Basic Education. Records indicate Mr. Gambino dropped out of formal enrollment in the GED program on November 22, 1996.

d. Counseling Programs - Mr. Gambino is not mandated to participate in drug education. However, he voluntarily completed the 40-hour drug education program on July 20, 1994. He also participated in Aids Awareness, and Personal Growth enhancement in Communication Skills. Furthermore, he participated in a counseling program entitled Insiders Group. This group provides counseling for criminally at risk young children.

e. Incident Reports -

<u>Date:</u>	<u>Code/Offense</u>	<u>Disposition:</u>
08-17-1999	406/Using phone or mail without authorization	UDC: change quarters

f. Institutional Movement -

<u>Date:</u>	<u>Institution:</u>	<u>Rationale:</u>
10-05-1998	FCI, Terminal Island, CA	Nearer Release
04-08-1998	FCI, Phoenix, AZ	Other
05-27-1994	FCI, Terminal Island, CA	Nearer Release
09-24-1993	FCI, Tucson, AZ	Nearer Release
09-22-1993	FCI, Safford, AZ	Lesser Security

PROGRESS REPORT - CONTINUED

Committed Name: Gambino, Rosario Reg. No. 06235-050 Date: 01-04-2001

01-06-1993	FCI, Memphis, TN	Adjustment Purposes
01-21-1987	FCI, Terminal Island, CA	Treatment Complete
03-09-1985	FMC, Springfield, MO	Initial Designation

g. Physical and Mental Health - Mr. Gambino is listed as regular duty with a medical restriction for a lower bunk. There are no noted mental health concerns. He should be considered fully employable upon release.

h. Progress on Financial Responsibility Plan - Mr. Gambino is currently participating in the Inmate Financial Responsibility Program where he is making \$100 quarterly payments toward his court-ordered fine. He has an outstanding balance of \$75,958. The Cost of Incarceration Fee (COIF) was not imposed and there are no other court imposed financial obligations.

17. Release Planning: Mr. Gambino plans to live in the Los Angeles, California area where his family currently resides. A definite release plan is forthcoming as he nears his release date and when his immigration status is resolved.

a. Residence - Josephina Gambino

b. Employment - Telephone Installation with his son.

c. USPO - Joseph J. Napurano, Chief
District of New Jersey
Post Office Box 459
Newark, NY 07101-0459

Offender is subject to notification under 18 U.S.C. §4042(b), due to the offender's current conviction for a drug trafficking crime.

d. Release Preparation Program - Mr. Gambino can participate in the program on a voluntary basis when he is 18-24 months from release due to his immigration status. For the same reason, he is not eligible for halfway house placement at this time.

18. Dictated By: Semaia 1/4/01
Fereti Semaia, Case Manager Date

19. Date Typed: January 4, 2001

20. Reviewed By: 83 1/4/01
Sherrielyn K. Beauchamp, Unit Manager Date

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PAROLE TAPE 1st HEARING

HD Good afternoon. For the record, are you Mr. Rosario Gambino?

RG Yes.

HD Okay, Mr. Gambino. I'm Harry Dwyer. I'm an examiner with the Parole Commission. I'm going to be doing your initial hearing this morning. I understand you have a little problem with English so if at any point you don't understand or you don't comprehend what's going on, say time out and then I'll be glad to explain. I'll give you an opportunity to speak to me and if you want to take your time when you speak, no problem. Just don't get excited where I don't understand you. Okay? All right. You were notified that you were going to have this hearing. Is that correct?

RG Yes.

HD And you do have a couple of representatives present. First of all, let's go through who we've got here. Young man, would you identify yourself for the record?

DB Daniel Brown.

HD You're a law student, right?

DB Yea.

HD USC?

DB Yea.

HD Daniel Brown?

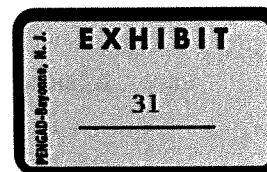
DB Yea.

HD And you're supervised today by --

DC Dennis Curtis. Of the same institution.

HD We do have other persons present. Young man identify yourself, please.

TG Tommy Gambino.



RCC0050

HD Tommy? And you're the son?

TG Yes.

HD And what city are you from Mr. Gambino?

TG You know we were from California, we were living --

HD Yea, but I mean where are you living now?

TG California.

HD Los Angeles, San Diego?

TG Los Angeles.

HD All right. And who's sitting to your right?

TG That's my mother, Joseppa.

HD And that's the wife, right?

TG Correct.

HD Los Angeles too? Okay. And to your left?

TG That's my grandmother, Salvatrice.

HD Gambino?

TG Correct.

HD And that is mother, right? Los Angeles also?

TG No, she's living in New York.

HD What part of New York?

TG In Brooklyn.

HD Brooklyn. Okay. What I'm going to do today is -- by the way, you did read your file. Your institutional file. Best as you could?

RG Yes, best as I could.

HD Now, what's going to happen today is I'm going to interview you, then I'm going to hear from your representative, Mr. Brown, who's going to be supervised by Mr. Curtis. Then I'm going to let you choose one of the three in the back to say

whatever they'd like to say in your behalf. Now, if your son would like to speak for both your wife and your mother, no problem. But I don't want all three. Okay? So you're going to speak for both your mother and your grandmother, right? I would like for you to say what you'd like to say on behalf of your father. I don't want you going over material that we've already covered during the course of the hearing unless you believe that it's really important, but yet, feel free to say what you'd like to say in his behalf. Okay?

TG And then I will say for my mother and for my grandmother.

HD Yea. I want you to summarize it for all three of you. Okay?

TG Very good.

HD And would you please, during the course of the hearing, tell your mother and grandmother kind of what's going on. But try not -- do it in such a way that it doesn't disturb the hearing. Okay? All right. Now, we've got that out of the way. Now, let's talk a little bit about your sentence. You have a 45 year sentence. And you've served 131 months, just one month short of 12 years -- I mean 11 years, right? You have not been out since March the 16th, 1984.

RG Right.

HD Now, you have a special parole term besides the 45 year term. I want to deal with -- you had a fine of \$105,000. Have you paid that?

RG Yes.

HD The entire amount?

RG No. I paid from --

HD About how much?

RCC0052

RG \$27,000 of it.

HD About \$27,000. Get that out of the way. Okay. Now, you went to Court. You got convicted of this. Did you appeal your case?

RG Yes.

HD And what happened? You got turned down? Did you appeal it to the Supreme Court or just to the --

RG Yes.

HD And they turned you down?

RG Right.

HD All right. So your sentence right now stands. Right?

RG Right.

HD Now, it indicates in the ... that you, I believe a relative, right, another Gambino, how do you pronounce his name? Erisno?

RG Arismo.

HD He's your relative.

RG He's my brother, no relative, no.

HD Brother?

RG Brother-in-law.

HD Okay. But you -- so you guys are brother-in-laws.

RG He's a different Gambino.

HD Different Gambino, okay. Anyhow, it's alleged that you guys were involved in heroin. Were you involved in heroin?

RG No, I wasn't really. I wasn't know little what happened. You know? And the one mistake I did, I should have stopped them. Like I should have stopped and I didn't and I should be guilty because I don't try my best to stop them. Because I

know what happened. For that I paid 11 years, you know, I think for that mistake I did, I paid 11 years from my life. I was guilty, yea, I was guilty.

HD What were you guilty of? What did you do to get you convicted? Let me explain something. I know what the government says. I know what went on at the court. That's not what I'm asking. I'm asking what did you do to get yourself convicted? How did you come to get involved in this thing?

RG Okay. See, my ... was talked to me about this -- he was talked to me. He was asking me for this. Really, at that time, I had an operation. I had a cancer in my throat and that was, I had a couple of operations. I was in depression. I was taking a lot of medication. I was looking for money really.

HD You were looking for money?

RG Yea, because I was ... the doctor he was telling me I got cancer. So, and that was, I talked to my cousin. He was talked to me about this. But really, I --

HD Who's your cousin?

RG Spatola. Really, I don't find no drugs. I can't find no drug to give to him. So this guy went to this guy Sahita and he find the drug. He was the guy who give him the drug. And the last thing I know, they was dealing with the agent. And I got busted.

HD Did you talk to the agent?

RG Never.

HD You had no contact with the agent?

RCC0054

RG None at all and no telephone call.

HD Did you get any of the money?

RG No. I didn't -- see, I had \$200.00 because -- they found \$200.00 --

HD Two one hundred dollar bills.

RG Right. And I don't know, my cousin in the casino, I was that night at the casino. I had \$200.00.

HD You got that from some situation different than them giving it to you.

RG Yea. Right.

HD Back in '83, they charged you with fraud. You remember that? Fraud. Hold on a minute. Conspiracy to defraud U.S. Department of Treasury and false statements. This was regarding a home, a bar, Cherry Hill Bar. Did you go to Court on that?

RG Oh, yes, yes.

HD What did you get on that?

RG Okay, nothing. They charged me for tax evasion. And they didn't go in trial and we --

HD You got acquitted.

RG I got acquitted. I'm sorry, I don't --

HD No problem. That was indicated in here that it was pending trial and I wanted to clear it up for the record. Now, speaking of the clearing up for the record, what's happening with the Italian situation?

RG Okay, see I got tried in New York in 1980, I think, or 1979 on conspiracy for drug too, no? And in that trial I got acquitted and then he tell them take off and they try me in

absentee with no rule and nothing.

HD And gave you 20 years.

RG And gave me 20 years in jail. But they did in New York this trial already. They didn't ... I got free with the jury.

HD So now what's happened to that? Is it still a valid conviction as far as you know?

RG Yes. As far as I know, yea.

HD I'm trying to clear up all these details. I'm sure somebody's got to review this and say what happened to these things. All right. Now, were you involved in any changing of hands of heroin? Did you possess any heroin?

RG Not in my hand, no.

HD Did you facilitate, did you help somebody get some heroin?

RG No, I was trying, like I said before, --

HD How did they convict you if you didn't do it? I'm wondering why they convicted you if you'd never touched the heroin, you never talked people in touch with each other. Why do you think that they convicted you?

RG I can explain to this. My cousin, Spatola, he was do the talk on the phone and he was mentioning, I want to get up, I -- and they was talking with the other guy with ... Gambino, is another ... and they was talk like I was help them too. So they throw my name on the pot. So now, on the tape was my name like they was -- and that's why I got convicted in Court. But really, I was no talk to agent and nobody to testify against me. I got convicted, the jury was -- but I got acquitted, the ... jury charged me with the 848.

HD That's continual criminal --

RCC0056

RG But the jury acquitted me of that. What can I say? I think, you know, I punish myself. I punish my family. Of the mistake I make. What can you -- what I say to you? What can I say?

HD That's one other thing I wanted to talk about. About your prior record. You had a DUI, driving while intoxicated. Did that ever go to court?

RG No.

HD They dropped that?

RG Yea that never went to court.

HD You never went to court on that or anything? The only time that you've been to court is --

RG Is this time.

HD Was this time and when you went when the jury held ... That's the only two times that you've been to court.

RG Right.

HD Now, what the government writes is that you were involved in a large scale heroin distribution ring. You've told me that you didn't have anything to do with this whatsoever. What do you think caused the jury to believe that you were involved with the other guys. What do you think would cause the jury to convict you?

RG Because number one is my name. Because see, they billed this name like big building it. I'm not, I'm not the name they're looking for.

HD Who they looking for?

RG I don't know. They looking for some big name.

HD Let's put the cards on the table.

RCC0057

RG Go ahead.

HD Carlo Gambino. What relationship are you to Carlo Gambino?

RG No relationship. No because I refuse him to be my cousin or something like that.

HD You're not related to him in any way?

RG No.

HD Did they think that you were related to him?

RG Yes, cousin.

HD And you think that's the reason they brought the people down on you.

RG Yes. And they think I'm smuggle drug, I'm this and that because of my name. I'm -- they want to punish my name. Like somebody like you now. I hope you punish my crime, because --

see, my name, they did like a building. I don't know why they did so.

HD Do you think if I was going to punish you by your name I'd be asking you all these questions?

RG That's what I say, I'm sorry. Because you're now the only one really can give me justice. You're the only one.

HD Now, the people -- who got the most time of all the people that went to court? You did.

RG Yes.

HD Who got the least time?

RG The guy did all of this mess. He's got the less time.

HD Who's that?

RG Antonio, Gambino, Espatola.

HD What did they get?

RG 34.

RCC0058

HD They got 34 years.

RG And they're home already.

HD And they're home. How much time did they do?

RG Espatola did 10 years. Bosko did 6 years.

HD Well, if they got 34 years and got it regular adult like you did, they'd have to do 10.

RG Okay, because me. Spatola did 10 years. Bosko got 15.

HD He got 15. So he got much less than you.

RG Yes because he pled guilty. He pled guilty.

HD Now, you've been around the horn since you've been locked up. Didn't you start out here at one point and --

RG No, Springfield because I was sick and my throat.

HD But didn't you come from Springfield out here?

RG Yes.

HD Then you've been at Tucson -- where else you been besides Tucson?

RG In Tennessee.

HD Memphis?

RG Memphis.

HD Before you came this last time out here, where were you?

RG Tucson.

HD Looking through the record, you've only had one misconduct report and I believe that was for a pill that you had.

RG My medication, right.

HD Was that given to you?

RG Yes. ... take medication.

HD Were you supposed to take it at the pill ... like this? And you put it in your pocket?

RCC0059

RG Right.

HD That's the only shot.

RG Yes. If I can explain --

HD It's not that serious a shot. You finally worked in food service.

RG Yes.

HD There's a lot of people right in here that you're a good cook but you don't eat the food that you fix.

RG I try to do my best.

HD I'm trying to compliment you. There's some good memos in your behalf. Why did they move you to these other places?

RG See, the time I had a cancer in my throat and I still got it.

HD I know you would go to Springfield for a medical.

RG Now, they're supposed to give me because they was a growth in my throat. Okay? So the doctor told me he was supposed to give me an operation. So I got scared. I called my family and I called my doctor from Philadelphia because he gave me two operations outside, when I was outside. I wanted to my doctor to do the operation. And my wife called. And the doctor don't want to give no information about this.

HD What doctor?

RG The doctor outside doctor, Dr. Kane I think they call him.

HD From Philadelphia?

RG No, in California.

HD So the one that the Bureau had looking at you?

RG Right. So there was a misunderstanding because they think my lawyer, he ask a lot of questions anyway.

HD So that's the reason they transferred you?

RCC0060

RG Yes.

HD And then when did you get back here to TI?

RG About 10 months ago.

HD That was the only shot you had that we talked about the pill.
You've been going to school.

RG I go to school. I did a lot of program in --

HD Did you get your GED?

RG I still go to school.

HD When do you go to school?

RG Every day.

HD Morning or the afternoons?

RG I go 10:00.

HD Then when do you work, in the afternoons?

RG Yea, I work at the night time, yes.

HD You're on the night shift.

RG Yes.

HD What are you doing in food service now? What's your job over there?

RG No, I am now an orderly on the unit.

HD I thought you were still in food service.

RG I was until a month ago. See, I went -- I did a program to creative write. And the time I been ... I had a lot of education, learned a lot of things. I want the chance to come back my family.

HD I'm sure we're going to hear from your family in a little bit. When you're released, are you planning to live here in Los Angeles?

RG Yes.

RCC0061

HD What kind of work will you do?

RG I'm involved, I'm creative writing. I make a movie, whatever. My son has got a company, no?

HD So you'll be doing some writing.

RG Right. That's what I like to do.

HD I want you to sit back and think about what we might have missed that you wanted to say this morning. I know that you - - we've been going around you and I for quite a bit, but I'm going to start hearing from your representatives, give you a chance to think about what you wanted to say what we might have missed and I'll come back to you. All right? Now, who I'm going to talk to next is Tommy. Mr. Gambino, what would you like to say in behalf of your father today?

TG I wanted to say that it's been 11 years now that he's been in jail. We moved from New Jersey to Los Angeles 8 years ago. The reason why we moved here is because my father suffered from depression from being separated with his family. We're a very close family. We've always been a close family. And that's the reason why we moved here. I also want you to know that once my father's released, we're going to live in Los Angeles. We're based in Los Angeles now. And I have a business in Los Angeles that he could help me run. We have no intentions of moving back to New Jersey or New York.

HD What kind of company you have?

TG It's a telephone company. A pay phone company.

HD This a family business or your business?

TG Me and my family. My sisters help me and my brother. All we want now is to start a new life here in Los Angeles. If you

could give us the chance to once again be a family here in California. I also would like if you could take into consideration that we grew up in this prison. We've been coming here for years now. Every one in this prison knows us, how long we've been coming in here. I think that we definitely put in our share to the system, my family and my father's been here a long time. I think we'd love to be a family again after all these years. I was 10 years old when he went to jail. Now I'm 21 years old. We've gone from jail to jail, Tennessee, Arizona.

HD I'm well aware of that.

TG It's been tough on my mother, my sister. On the family.

HD This pretty much what your mother and your grandmother would say in your father's behalf?

TG My mother would like me to translate what she would like to --

HD I would like you to summarize. I usually don't allow this many people in a room. I don't want to mistreat your family because I know your father's been locked up a long time, but by the same token, I can't let everybody talk and then the next guy I bring in, not let people in. Just summarize briefly what they would say.

TG They would like to say that my Grandmother is very sick. She's got arthritis and she's got heart problems. She came here from New York just for this hearing because she thought that my father would be released.

HD For support.

TG Yes. She would like to come live with us here in California. The doctor recommended that she needs to be in warm weather

because of her arthritis. If not in California, she needs to be somewhere very warm. She took the opportunity to come here. My mother, it's time now that she needs her husband back and that her kids need a father. They've been apart for 11 years. We feel that it's time now that we ought to become a family again.

HD Very good. Thank you. Okay, we're getting to Mr. Brown. Mr. Brown, what would you like to say on behalf of Mr. Gambino?

DB I think first of all, --

HD Let me explain something to you. I've read what you submitted so don't make me read it and then tell me all about it again, long winded because I'll forget it all. All right?

C Don't you think I tell these people that Harry?

HD What would you like to say?

DB First of all, Mr. Gambino, he's already served well in excess of the appropriate guideline range. He's never been involved in any kind of organized criminal conspiracy. He was convicted of the continuing criminal enterprise count -- was acquitted, excuse me. His guideline range is 40 to 52 months based on less than kilogram of heroine and he's been in here 131, I think for a crime that serious it's probably more than enough time to serve. He has health problems which he needs to get out and get taken care of. He is suffering from depression for which he's been taking medication here which has definitely helped him out a lot. There's a lot of allegations in his file of organized like a widespread criminal enterprise are really not substantiated. If you look at the actual events that happened in the crime itself, kind

of would lead you to question that as well. The government's own ... shows the various co-defendants scrambling around just to come up with less than half a kilogram of drugs. It doesn't really seem like there's some powerful international cartel going on here. There was one error in the pre-hearing assessment report that I wanted to draw your attention. In there they said when his house was searched they found a sample of heroin and a gun.

HD That was not his house.

DB Yes. Perhaps you have a new -- this was an old assessment report. Then the government, the phone conversations they had between the various other co-defendants establish that he is not really -- he wasn't even the leader of this whole affair anyway. In there they're talking about making decisions and that was between Spatola and Antonio Gambino and they're saying we're the boss. We'll decide. Beyond that his institutional record has been excellent.

HD Real good. Dennis, did you want to add?

DC Two things really. One of the questions that you asked is I think the most important question and that is how did he get convicted. He got convicted through references by the two people who actually sold the drugs and telephone conversations and that was it. That's how he got convicted. I think that there was a lot of what we talked about a little bit earlier.

HD You talking about the wire taps?

DC I'm talking about the wire taps, yes. That's how he got convicted and he never handled any of the drugs. He never -- none of it was ever found in his house. He was not -- as Dan

said, these guys, far from being a big ring, scrambled like crazy to come up with half a kilogram after the government tried to get them to give two kilograms so you're not talking about guys they have out here in the compound of 100 kilograms, 200 kilograms, etc., etc. I think what happened in that, unfortunately in that trial was that the name Gambino was used against him and the name Gambino has caused him, I think a lot of grief. I wish he could have changed it a long time ago but he didn't..

RG When I get out. When I get out I got plans to do that.

DC I guess you know about his co-defendants, what they -- I think one of them was a salient factor -- one of them was severity of -- I think 6 or 7 different -- I think at the max it was 6 or 7.

HD You guys did see the purview where they rated as an 8. I'm not saying, but I just want to make sure that you guys did in fact see that.

DC We saw that but we also know that his co-defendants were rated as 6 and 7 or whatever they were rated at. Basically that's all I have.

HD Your guidelines, if it stays as category 8 your guidelines are 100 plus months. Now, the shot that you got for the pill, 0 to 2 months. You understand that? But if it stays a category 8, 0 to 2 months because you can't add to something that's not there. I indicated to you that I would give you a chance to say whatever you'd like to say on your behalf that we might have missed.

RG Number one, you know, I want you to consider it like the drug

was less than a kilo. 11 years I did and like I said, the time I've been here, I've learned a lot of things in life. I know my family was punished for this. I punished my family. I punished myself. I want the chance to get out and take care of my mother, my family, my wife and my kids. Because now they need me. I want to build a new life in California. I want to be father for everybody. I want to be with my family and build a new life.

HD. Let me tell you something, if we parole you, you can't be associating with these kinds of people any more. Because you know you lost 45 years and we can bring you back.

RG Right. That's exactly what I mean. If I do something wrong, they can get me --

HD That's what I'm telling you.

RG That's why I bring my family in California. I wanted to be out for everybody.

HD Step out a moment and I'll call you back in.

(Second Side)

HD Mr. Gambino, when you got arrested, your case hit the newspapers pretty heavily back there. I'm ~~not~~ making you a case of original jurisdiction. If I did that, all the commissioners would -- the national commissioners would have to vote on it. However, I'm going to tell them that your case got a lot of publicity and they may make your case what they call original jurisdiction. That means more than one commissioner voting on your case. You understand?

DC I'll tell him.

HD It may be -- that would be because of the publicity behind

your arrest and everything.

RG I think the institution, they take off for this.

HD This is different. Different. So now, what I'm going to give you is my recommendation. It could come back different. There's been things done with co-defendants all other the spectrum. I do know that one guy, they gave him 272 months or something like that, I think. Best as I can figure out. But anyhow, I've listened carefully to what you've had to say about your involvement in this offense. I've carefully reviewed what you've had to say and the material that you guys presented right here. I did in fact go over that. I'm not going to change the category. I'm going to leave it as a category 8. Guidelines of 100+ months. You had one shot but

that doesn't effect your guidelines. 100+ months means the commission would anticipate that you would do not less than 100 months. There's no top. But I'm going to take it to 148 months, recommend that you get a date of July 15, that right? July 15, 1996, that's 148 months -- July 16, 1996. You've been in custody since March 16 of '84. Twelve years and four months 148 months, that would be -- July 15. I'm going to tell you, I do not believe it's going to come back any less than that. It could come back more. They could disagree with me and push you way down the road. So don't pack your bags. Now, whatever comes back if you feel that you've been treated unfairly, an error's been made, exercise your appeal rights. Thank you very much for coming in. You understand everything that went on?

RCC0068

DANIAL BROWN, USC.

PRE-HEARING ASSESSMENT

INSTITUTION: FCI TUCSON
NAME: GAMBINO, Rosario
REG. NO.: 06235-050
DATE OF BIRTH: [REDACTED] MONTHS IN CUSTODY 179 AS OF 2-15-94
SENTENCE(S) LENGTH/TYPE: 45 yrs RA PAROLE ELIGIBILITY DATE: 3-15-94
2/3rds DATE: 3-15-14
DETAINER: (NO) (YES)
FINES/RESTITUTION: (NO) (X YES) REVIEWER: KRICK DATE: 2-3-94

I. PRESENT OFFENSE:

A. The prisoner was convicted by trial of: Conspiracy to distribute, distribution, Possession with intent to distribute heroin and use of a communication facility.

B. The following information indicates that Gambino is a descendant of the late mob boss, Carlo Gambino, and is said to be by law enforcement authorities involved in extensive criminal activities which are under investigation in the Philadelphia, Pennsylvania and southern New Jersey areas. According to the New Jersey state crime commission report and the Pennsylvania organized crime commission report of 1980, Gambino is described as the soldier and descendant in the organized crime family. He, along with his brother, Giuseppe, a codefendant in the instant case, own and operate pizza parlors in New York, Pennsylvania and southern New Jersey to facilitate a continuing criminal interprod which is described by one ATF agent as using a pattern of threats, coercion, violence and arson to facilitate illegal activities in the states of Pennsylvania and New Jersey.

Gambino has six prior arrests commencing at the age 20 which include violation of immigration law; petty larceny, resisting arrest, intoxicating driving; assault and criminal trespass; extortion; possession of dangerous weapon; and contributing to the delinquency of minors; and most recently during March of 1980 conspiracy to import Heroin.

This latter arrest involved the case with he and his brother being arrested in their Cherry Hill restaurant, Valentino's, for allegedly participating in that international Heroin smuggling operation, after police in Milan, Italy confiscated 41.5 kilograms destined for the United States with an estimated street value of about 60 million dollars making it one of the largest drug busts at that time in the United States. As a result of the above incident Gambino was subsequently convicted in Italy as set forth under item A of the SFS. According to a recent treaty with Italian government, Gambino is subject to extradition and his permanent U.S. residence status is jeopardized by the instant conviction making him subject to deportation.

NAME: GAMBINO, Rosario
REG. NO. 06235-050
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The instant offense is described as having incurred between October 1, 1983 and March 16 of 1984. According to the government the focus of the scheme focused centered around six individuals, all of whom are related. Gambino was described as having a high managerial role and being the most culpable.

Specifically the information indicates undercover FBI agent in October 1983 made a number of ounce purchases of high level quality cocaine from Antonio Gambino, a native of Sicily, residing in Cape May, New Jersey who during the course of the negotiations indicated that he had access to high quality heroin. Throughout his conversations with the undercover agent it was obvious he was deeply committed to pursuing additional and larger transactions. Early in the investigation it became apparent that the supply of heroin was maintained in Brooklyn, New York and that the Cafe Milano in Brooklyn, New York was a recognized meeting place used by co-conspirators to discuss their transactions. When a agreement was finally reached between the undercover agent and Antonio Gambino for the purchase of 1 kilogram of heroin for \$235,000 the latter indicated that he would obtain a sample while in Brooklyn, New York for the Christmas holidays. Upon his return he delivered a sample to the undercover agent on 12-27-83 subsequently intercepted telephone conversations indicated that Gambino's approval was a prerequisite to the proposed heroin deal with the undercover agent and in addition to approving the deal, Rosario Gambino (The subject) also exercised control over who would actively participate in the heroin transaction. At the time of the scheduled transaction, the subject in less than two hours arranged to obtain a half kilogram of heroin as a favor and attempted to secure the whole kilogram of heroin for them indicating that the whole kilogram would be available the next day or the day after while increasing the price of the heroin. The heroin was finally received on 1-18-84 and Anthony Spicola and Anthony Gambino sold approximately 460 grams of heroin to the undercover agents for \$112,400 at the Cesars' Boardwalk regency hotel in Atlantic City, New Jersey, the heroin had a purity of 68.3 percent and a street value of more than \$3 million dollars. At the meeting, reference was repeatedly made to the source of supply as being family while being very secretive about family and the family name. The undercover agents were told that after this and the other deal the last name might be disclosed and once they knew they would be proud and would feel 100% secure in dealing with them. It was boasted that the family was "Really Big" and "We can give you all of the guarantee you want." All were related to each other and during the conversation the undercover agents indicated wanting a guarantee of a set amount of heroin for each month and they asked for a guarantee of 10 kilograms per month, indicated he was doubtful that they could guarantee such a large amount, he indicated that they would ask, the money was then delivered to the subject at his residence.

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Intercepted, conversations on 1-22-84 clearly demonstrated the supervisory roles of Rosario Gambino and Irasmus Gambino in the continuing conspiracy. It was apparent from the conversation that the subject had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits would be divided among the participants.

On or about 1-20-84, Antonio Gambino informed the undercover agent 3 kilos were available for a price of \$235,000 each. During a meeting of 1-24-84, when the agent reported his bosses disappointment in the quality of the heroin previously purchased, Antonio Gambino and Anthony Spicola repeatedly urged the undercover agent to convince his boss to purchase more heroin and explain that they now had the "Guarantee" for 10 kilos of heroin per month. Rosario Gambino and Irasmus Gambino. They further indicated that 3 kilos of heroin were now available, however, Rosario Gambino had to resort to obtaining the heroin from someone else to complete the deal.

Subsequently, the conspirators became very cautious as a result of the heroin arrest in Philadelphia, Pennsylvania of a number of Sicilian defendants. The conspirator indicted that there was no connection between their people and those named in the Philadelphia daily news, however, intercepted conversations that they reflected Irasmus Gambino spoke to persons close to those arrested and offered his assistance in securing bail money and attorneys. Clearly the arrest pampered the negotiations by the loss of confidence by Gambinos' people and the undercover agents and willingness to purchase the three kilos of heroin that were available appearing questionable to the Gambinos. After significant delay, the offer that two kilos were available immediately changes in the place of transaction and a demand for a front of 1/2 purchase price on 2-20-84 Spicola and Antonia Gambino sold approximately 1/2 kilo of heroin of 73.8% purity to agents for \$120,000.00 at a motel in Summers Point, New Jersey.

On March 16, 1984, Rosario Gambino was arrested and search warrants executed at his residence revealed two \$100.00 bills that had been part of the buy money used by undercover agents to purchase the heroin on 2-20-84. Also this search resulted in seizure of \$20,000.00 cash found in a secret compartment in his bedroom closet and confidential New York City Intelligence files relating to the subject including surveillance conducted at Cafe Milano. A search of arrest was Gambinos residence revealed an unregistered Smith and Wesson .38 caliber pistol and the ammunition and a sample of heroin of 95.4% purity.

In summary, Rosario Gambino, a descendant of the late Mob boss Carlo Gambino, had the authority to determine who would be actively involved in the heroin negotiations and transactions and how the profits could be divided among the participants in the Philadelphia, Pennsylvania and south New Jersey areas from his supervisory role overseeing the mobs' extensive activities. The intercepted conversations clearly demonstrated the subjects involvement in continuing conspiracy and he has capacity to supply whatever amount of heroin his underlings and distributors require. As reflected above, specifically Gambino was involved in the arrangement

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PAGE 4

to deliver 1/2 kilogram of heroin on January 18th and February 20, 1984, respectively, for a total of 1 kilogram of heroin to undercover agents. It is further indicated 3 kilograms and later 2 kilograms of heroin were available during the negotiation and subject and co-conspirator offered guarantees of 10 kilos of heroin for a month which the information obtained during the negotiations and intercepted conversations surrounding the criminal activity, as well as subject's previous arrest March 18, 1980, would indicate the capacity to provide such an extremely large scale amount of heroin.

C. The offense behavior is rated as Category ^ severity because ^

II. SALIENT FACTOR SCORE:

- A = ^ Subject has ^ convictions.
- B = ^ Subject has ^ commitments of more than 30 days that were imposed prior to the last overt act of the current offense.
- C = ^ Subject was ^ years old at the commencement of the current offense.
- D = ^ Subject <bb>has no prior commitments,<e> was last released from a countable commitment,<e> less than three years prior to the current offense.<e> three or more years prior to the current offense.<e><ee> Date of last release is ^
- E = ^ Subject is a <bb>probation<e> parole<e> confinement<e> escape<e><ee> status violator.
- F = ^ Subject <bb>has<e> does not have<e><ee> a history of Opiate Dependence.

^ TOTAL SCORE

III. The guideline range is ^ months.

IV. OTHER SIGNIFICANT PRIOR RECORD/STABILITY FACTORS: ^

V. CO-DEFENDANTS: ^

VI. FORM USA-792, AO-235, AO-337: ^

VII. PAROLE ON THE RECORD: ^

TLK/kjt/sl 2-8, 2-9-94

USPC/Gambino-00502

EDWARD S. PANZER

ATTORNEY AT LAW
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NEW YORK, N.Y. 10007

(212) 349-6128
FAX (212) 406-6890

September 25, 1995

Hearing Examiner
Parole Board
FCI Terminal Island
1299 Seaside Avenue
Post Office Box 3244
San Pedro, California 90731

Re: Rosario Gambino
Register No. 06235-050

Dear Sir/Madam:

Please be advised that I was one of the attorneys that participated in United States v. Gambino, a trial that lasted over six months in the Southern District of New York before the Honorable Peter K. Leisure. The actual investigation with respect to the above referenced case ran from 1988 to 1994.

During said period, I became acquainted with the testimony of Tomasso Buscetta, a government witness who was and remains in protective custody. Mr. Buscetta was an important government witness in the Pizza Connection trial in 1982. The minutes of that trial reflect that Mr. Buscetta knew the Gambinos' and testified that they were not part of Organized Crime and that they were not part of any drug transactions.

I personally spoke with Mr. Buscetta in 1993. He indicated to me that he knew the Gambinos, Joe, John and Rosario Gambino. He knew them to be in the meat business, that they were hard working people and that they were not involved in any criminal organizations.

Mr. Buscetta testified as a defense witness in the Gambino trial in 1993 and my recollection is that he again testified under oath that the Gambinos' were not involved in any drug or criminal activities.

EXHIBIT

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USPC/Gambino-00758

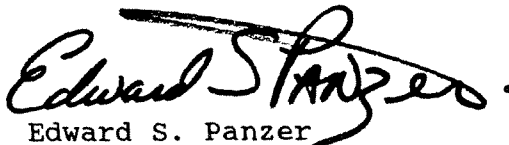
Hearing Examiner
Parole Board
September 25, 1995
Page (2)

I hope this letter is helpful in making a fair and just determination with respect to Rosario Gambino's Parole Status.

If you have any questions, please feel free to contact me.

Thank you for your courtesy in this matter.

Very truly yours,


Edward S. Panzer

ESP:ls

Memorandum



FYI

Subject

GAMBINO, Rosario
Reg.No. 06236-050

Date

December 30, 1997

To

Marie Ragghianti
Chief of Staff
U.S. Parole Commission

From

Thomas C. Kowalski
Thomas C. Kowalski
Manager
Case Operations
U.S. Parole Commission

Rosario Gambino was sentenced to a 45 year Regular Adult sentence plus a 20 year special parole term on 12/6/84 for Conspiracy and Possession With Intent to Distribute Heroin. A \$105,000 fine was also imposed. The jury in this case found that Rosario Gambino, Anthony Spatola and Antonio Gambino were members of a heroin trafficking conspiracy apparently able to supply 10 kilos of uncut heroin on a monthly basis. The facts showed that Rosario Gambino and Erasmo Gambino were not merely independent contractors but rather were key links between the distribution level and the supply level in an international heroin trafficking organization. These defendants guaranteed the undercover agents 10 kilos of over 90% pure heroin each month! The government produced evidence that Rosario Gambino was the person who supervised the activities of the remaining defendants. This current conviction was not the first time the subject was accused of serious criminal activities. In 1979, 6 kilos of heroin were seized at JFK Airport after an unsuccessful attempt which made use of Alitalia airline employees. After the seizure, there was no publicity so the purchasers here suspected that the airline employees had stolen the heroin. Employees were threatened with death and in one case, physically tortured. During this time, Rosario Gambino surfaced allegedly to settle the matter. One of the airline employees met with Rosario Gambino and was finally able to convince him that the heroin was seized. Rosario Gambino was indicted and eventually tried. The trial resulted in a hung jury and when retried, he was acquitted.)

Following the seizure of the 6 kilos mentioned above, the airline employee met with a Gambino associate (Emanuel Adamita) in another effort to smuggle heroin from Italy. The airline employee negotiated his financial arrangement with Rosario Gambino's brother Guiseppe. The employee and Adamita travelled to Italy. The DEA and Italian authorities agreed that the heroin would be permitted to leave Italy so that prosecution could occur in the USA. When Italian authorities discovered that the group intended to smuggle 40 kilos, the Italian authorities declined to permit such a massive amount of heroin to leave the country, Adamita and others were arrested. Rosario Gambino was tried in absentia

USPC/Gambino--00924

EXHIBIT

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and convicted of criminal association with the purpose of trafficking in narcotics. He was sentenced on 6/6/83 to 20 years imprisonment.

Rosario Gambino's criminal activities also extend to arson and extortion. In 1980, the ATF presented a report of its investigation into a series of arsons which included incriminating evidence against Rosario Gambino. Notable among these arsons were two which appear related to efforts by Rosario and his brother Guiseppe Gambino to take over a pizza franchise in Cherry Hill, NJ. Rosario and his brother were observed at the scene of a pizza restaurant following the arson and shortly thereafter, the manager received a call and told to close the store and return to New York. Two days later, the manager's automobile was destroyed by a firebomb. Two days later, the manager received a telephone call and threatened with death.

There is also evidence that Rosario Gambino participated in the harboring of Michele Sindona while he was a fugitive. Sindona was charged in 1979 with bank fraud and embezzlement in conjunction with the collapse of the Franklin National Bank, a fraud involving \$400 million.

In addition, during a search of Rosario Gambino's residence in 3/84, agents seized photocopies of intelligence files of the NY City Police Department. The investigation revealed that a NY City detective provided these intelligence files to Gambino.

Subject had his initial parole hearing at the FCI Terminal Island on 2/16/95 after having served 148 months in custody. At the hearing, he denied involvement in any narcotic trafficking but acknowledged that he was having financial problems and in need of money. He says that the \$100 bills found in his possession (part of the bait money used during the sale of heroin) was received from gambling rather than any involvement in the drug deal. The offense severity was rated as Category Eight because it involved conspiracy to distribute 6 kilos or more of heroin. The SFS was 9 and the guidelines were 100+ months to be served. He was provided a 15 year reconsideration hearing in 3/2010. A decision more than 48 months above the minimum guidelines was warranted because of his status as a member of organized crime. Mr. Rosario was represented by the U.S.C. Law Center who prepared an appeal to the initial decision. The National Appeals Board remanded the case back for re-hearing to obtain information relating to the allegation that the subject was a member of organized crime.

A rehearing was conducted on 12/12/95 at the FCI Terminal Island. Copies of the 1980 Pennsylvania Crime Commission Report and the New Jersey Report from the Commission of Investigation were included to support his involvement with organized crime. The examiner however, concluded that there was not sufficient information available to conclude that Rosario Gambino is a member of organized crime. The examiner did recommend that the 15 year reconsideration hearing be maintained and new reasons were provided to support a decision more than 48 months above the minimum guidelines. The National Appeals Board issued a Notice dated 2/2/96 which provided for a 15 year recon

hearing in 3/2010. The U.S.C. Law Center again represented the subject on appeal. The NAB denied reconsideration of the decision of 2/2/96 (the 15 year recon hearing).

The subject was scheduled for a SIH hearing in 11/97 at the FCI Terminal Island but waived.

The Sentencing Memorandum and documents in the file clearly depict the subject as an individual deeply involved in organized criminal activity.

3-9-95

INITIAL HEARING SUMMARY

NAME: Rosario GAMBINO DATE: 02/16/1995
REG NO: 06235-050 CASSETTE NO: 91680
GUIDELINE: 100+ months INSTITUTION: FCI Terminal
Island
SFS: 9 SEVERITY CATEGORY: Eight
RECOMMENDED RELEASE presumptive parole 07/15/96 AFTER 148 MONTHS OF SERVICE
PANEL: ~~Samuel R. Robertson~~ *HARRY DWYER, JR* *3/31/95*

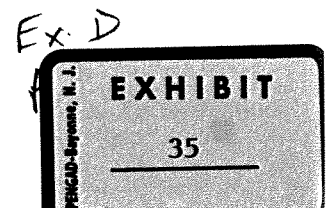
I. The panel has discussed the prisoner's severity rating, salient factor score and guidelines with the prisoner. The prisoner contested the description of the offense behavior, salient factor score items and/or guideline range.

Subject adamantly denies involvement in any narcotic trafficking, however, he acknowledges that he was having financial difficulty during the period time of the alleged offense and that he was in need of money. Subject states that he was involved on a much small scale than alleged in the pre-sentence report and he firmly believes that he was convicted on the basis of wire-taps and his name. Subject adamantly denies that he was related to the organized crime boss known as Carlo Gambino. Subject states that two \$100 bills found in his possession were not given to him by someone else who was involved in the offense but rather as a result of his being involved in gambling. Subject believes that he was treated unfairly and pointed out that he was acquitted of the serious charge of continuing criminal enterprise (848).

After careful consideration of subject's statements and information contained in the pre-sentence report this examiner believes that there is more credible evidence that subject did in fact engage in the activities as described in the pre-sentence report and that subject's statements are self-serving. Thus, this examiner has concluded by the preponderance of evidence that subject did in fact engage in a Category eight offense behavior regarding the extremely large scale heroin distribution.

II. MODIFICATIONS, ADDITIONS, CORRECTIONS: None

USPC/Gambino-00486



III. INSTITUTIONAL FACTORS:

a. Discipline: Subject has received one misconduct report regarding medication. This incident occurred on May 18, 1989 when subject was found to have a number of green pills within his property which were unauthorized to retain within his property or on his person. The DHO found him to have possessing unauthorized pills and that subject was supposed to take the pills at pill line and not leave the hospital area and return to another area without taking the pills. The DHO sanction was 21 days disciplinary segregation and forfeit 50 days statutory good time.

b. Program Achievement: Subject has been on Terminal Island on two separate occasions, Springfield, Memphis, Safford and Tucson. Subject has primarily worked in food service and there are numerous memos in the file attesting subject's excellent work performance in food service. For the past month subject has worked as a unit orderly and he continues to receive excellent work reports. Subject has been involved in the GED program for an extended period of time and subject also has been involved in counseling because of the depression which he has suffered through this period of confinement. Overall subject has adjusted in a very favorable fashion.

IV. FINES, RESTITUTION: Subject has paid part of his \$105,000.00 fine but still has \$77,765.00 remaining.

Subject's future plans are to reunite with his wife and children in Los Angeles, California and he hopes to be a writer. Subject's son and other family members own a telephone company and he could work for the family business when he is released. There does not appear to be a need for any special conditions other than the special mental health condition.

V. RELEASE PLANS:

VI. REPRESENTATIVE: Subject was represented by USC law student Dennis Brown who was supervised by Dennis Curtis, professor, USC Law School. Also present was subject's son, Tommy, his wife and mother. Tommy Gambino spoke in behalf of his mother and grandmother indicating that subject has excellent family support and the family is most anxious to have subject returned to the community. Subject has served 11 years and the family has moved from New Jersey to California to be near him because of his depression. Subject will live with the family in Los Angeles and the father could help with the family business with is a telephone company. Subject's mother is ill and came out to the hearing from New York to support her son and once her son is released she will move out to Los Angeles to live with the family. Subject's wife was present and according to the son is most anxious to have her husband return and it is quite evident that subject has excellent family support. It is noted that subject's wife and mother have a very limited command of the english language.

GAMBINO, Rosario 06235-050
Initial Summary
Page 3

Dennis Brown presented material in subject's behalf and written and also stated at today's hearing that he believes that subject should be released. Subject has served in excess of the guideline range which he believes should 40-52 months based on category six and a salient factor score in the very good range. Subject has medical problems and suffers from depression. There are a lot of statements regarding organized crime in the presentence report but there is no concrete evidence of such activity. It should be noted that the heroin and gun mentioned found in subject's house was not actually subject's house but someone else's. He was not the leader in the instant offense and subject has been an outstanding inmate through his period of confinement.

Dennis curtis believes that the major evidence that convicted subject was the wire tap an he was not the prime mover nor was there a great deal of heroin involved in the instant offense.

VII. EVALUATION: The applicable guideline range is 100+ months.

Subject is serving a term of 45 years plus 20 years SPT for an extremely large scale heroin offense. The presentence report indicates that subject is a descendant of Crime family boss Carlo Gambino, however, subject states that he is not related to that person in any manner. In addition to the federal conviction, subject was convicted in absentia in Italy and has been sentenced to a term of 20 years. Of all of the co-defendants, subject received the longest sentence and several other co-defendants received a term of 30 years or more. By subject's own admission at today's hearing his arrest resulted in considerable publicity in the New York/New Jersey area at the time of his arrest, however, this examiner does not believe subject's case should be designated original jurisdiction. The reason the Commissioner may wish to consider original jurisdiction consideration based on the unusual publicity in this case. Subject has now served 131 months with subject's minimum guideline being 100 months and there being no maximum. During the almost 11 years that subject has been confined he has only received one misconduct report and that report is not considered an extremely serious misconduct report. He has had a good institutional record as evidenced by the numerous letters of commendation and subject has participated in the academic and counseling program.

This examiner suggests that there be a careful review of all the co-defendants, the severity established and the number of months they were required to serve before release. With limited information regarding the co-defendants, this examiner is concluding that subject should serve 148 months before he is returned to the community. This would have subject serving 48 months above the minimum and this examiner believes that this is sufficient sanction based on the behavior described in the presentence report.

VIII. PANEL RECOMMENDATION: Continue to presumptive parole after the service of 148 months, July 15, 1996 with the special mental health aftercare condition.

GAMBINO, Rosario 06235-050
Initial Summary
Page 4

pld
March 1, 1995